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DEPARTMENT FOR EUR - ROSSIN, EUR/SCE - NARDI AND KABUMOTO

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TAGS: [KAWC](#) [PREL](#) [PHUM](#) [HR](#) [ICTY](#)

SUBJECT: DEL PONTE BRIEFS DIPLOMATIC CORPS ON CROATIA'S  
ICTY COOPERATION

SUMMARY

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[11.](#) (C) ICTY Chief Prosecutor Carla del Ponte briefed the diplomatic corps in Zagreb following her October 6 meetings with PM Racan and President Mesic. Del Ponte was pleased with the GoC's new-found capacity to fulfill requests for assistance from the OTP. As expected, she was harshly critical of GoC efforts to date to find and apprehend ICTY fugitive Ante Gotovina, and said she had given PM Racan specific information of individuals and "services" in Croatia which were supporting Gotovina's flight from justice. Del Ponte commented that the GoC could arrest Gotovina in "a matter of weeks" if it made a concerted effort. The Prosecutor credited international pressure, particularly from the EU, for the GoC's improved performance, and asked that the international community maintain that pressure to ensure Croatia's continued cooperation with the ICTY. Del Ponte expressed confidence that Croatian prosecutors and special war crimes courts would be able to take over outstanding war crimes cases as called for the ICTY completion strategy. End Summary.

Documents are Flowing

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[12.](#) (C) In a well-attended briefing for the diplomatic corps October 6, ICTY Chief Prosecutor Carla del Ponte stated that the GoC's performance in meeting requests for assistance (RFAs) -- access to documentary archives and access to individuals -- had improved markedly over the last few months. She specifically said she would avoid the term "satisfied" as it had too many possible interpretations. She said that RFAs that had been outstanding over 13 months were now being completed. She stressed that her office would need to review the materials being delivered, but was confident that the quantity and quality represented significant improvement over the past.

[13.](#) (C) Del Ponte credited pressure from the international community, particularly from the EU as it reviewed ratification of Croatia's SAA, as the critical impetus for the GoC's improved performance. Commenting on questions over whether the ICTY could continue to provide this kind of clear benchmark for the GoC's performance in cooperating with the ICTY, del Ponte said that the requests for assistance are constantly being generated, but that she was more positive now that the GoC would not sit on new requests. She said she hoped the GoC would continue to answer RFAs in a timely fashion.

GoC still stalling on Gotovina

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[14.](#) (C) Del Ponte said that two previous reports the GoC had provided her on September 18th and 25th on its efforts to arrest Gotovina (reports required under Rule 59 of the Tribunal) were "absolutely unacceptable." She said she had not reviewed a new report handed to her that day, but at first glance it appears to complement and add to the previous reports.

[15.](#) (C) Del Ponte said she had provided PM Racan and Police Chief Ranko Ostojic with her assessment of why she continues to believe that ICTY indictee and fugitive Ante Gotovina is still in Croatia. She noted that President Mesic had told her a year ago that he had seen Gotovina personally in Zagreb in the company of a police escort.

[16.](#) (C) In her separate, private meeting with PM Racan, she said she had provided Racan with specific information on individuals and parts of institutions that continue to support Govovina's flight from justice. Racan said he would work to ensure the information does not become "contaminated," repeating the term to refer to the need to dismiss some authorities because of such "contamination."

[17.](#) (C) Speaking of the two meetings, she said that some information was known to her Croatian interlocutors, but some had surprised them. She said that Racan had softened his line as a result, saying to her what he repeated at their press conference, that the GoC was ready to arrest Gotovina

if he is in Croatia, and to assist other governments if he is abroad.

18. (C) Commenting on local press reports, del Ponte said that the ICTY had not/not conducted any negotiations with Gotovina via Ivo Pukanic, editor in chief of the sensationalist weekly Nacional. She let Thomas Osorio -- the ICTY Head of Office in Zagreb -- explain that Pukanic had approached Osorio with a message from Gotovina, to which the ICTY had responded that there would be no deals, the indictment against Gotovina

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would not be withdrawn, and that the only place for Gotovina was in The Hague. Del Ponte said President Mesic had indicated that Pukanic had approached him as well, and Mesic had responded with the message to Gotovina that it would be best if the fugitive general would voluntarily surrender himself. Del Ponte said, without further elaboration, that the infamous photo on the cover of the June 10th issue of Nacional, showing Pukanic and Gotovina together, was evidently a forgery.

19. (C) Del Ponte also criticized the GoC, stating that Gotovina was continuing to draw on his military pension, while his wife continued to receive her colonel's military salary without reporting for duty, but no effort had been made to track down to whom or where the money was being sent. Del Ponte noted that she did not believe that these funds were sufficient to sustain the evidently luxurious lifestyle Gotovina was enjoying on the run, but the fact they were still flowing indicated a lack of effort on the part of the GoC since the prosecutor's office had highlighted these flows back in December 2001. President Mesic promised to look into the matter.

#### Importance of International Pressure

10. (C) When the Dutch ambassador asked her whether she wasn't putting too much emphasis on Gotovina in light of the improved cooperation on the documentation issue, del Ponte responded that it was clear to her that the recent progress was only happening because of international pressure. Del Ponte said she believed Gotovina could be arrested in a few weeks, if GoC efforts continued as they were now. The EU ambassador commented that ratification of Croatia's EU SAA depended on her report to the UNSC. Del Ponte responded that she would keep her report strictly to the facts. However, she believed personally that it would be better if Gotovina remained a condition of SAA ratification, as she was sure the GoC could arrest him if it wanted to.

#### No Interest in New Indictments

11. (C) Del Ponte said that none of her interlocutors had expressed any interest in new indictments being prepared by the ICTY. She said the investigations were complete to open four new indictments, but declined to answer when these would be released.

#### Local Capacity

12. (C) Del Ponte commented that she had confidence in State Prosecutor Mladen Bajic and his office's ability to take over local prosecution of cases under the ICTY completion strategy. She added that the successful prosecution of Norac had improved her confidence in the ability of Croatian courts to take on more war crimes cases.

13. (C) Del Ponte said the pending law on war crimes which would designate special courts to try war crimes cases would hopefully prevent future travesties of justice as had occurred in the Lora case in Split. She noted that when her team had complained in one meeting today that the draft war crimes law did not have adequate provision for the use of ICTY-generated evidence in Croatian court proceedings, Minister of Justice Anticevic-Marinovic had picked up her cell phone and called the drafters working on the legislation to order the necessary change. (Note: the draft law passed first reading in the Sabor on October 1st, but had been taken off the fast track. This could indicate the law will be back in for a final vote before the Sabor is dissolved on October 14th in advance of the November 23rd elections. End Note.)

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